

(b) Additional Information for Requests. Additional information may be required depending on the facts and circumstances.

(c) Penalty of Perjury Statement. The following declaration, signed by the party making the submission, must accompany a TEB VCAP submission and any factual information submitted after the original submission or any change in the submission at a later time: "Under penalties of perjury, I declare that I have examined this submission, including accompanying documents and statements, and to the best of my knowledge and belief, the submission contains all the relevant facts relating to the request, and such facts are true, correct, and complete."

(d) Anonymous Closing Agreement Requests. An issuer or its authorized representative may initiate discussions regarding the appropriate terms of a closing agreement on an anonymous basis. An anonymous request may be made on behalf of a group of similarly situated issuers, but the execution of the closing agreement and all terms therein must be consistent with section 7121 of the Code. Until the name of the bond issue is disclosed to the Service, a request for a closing agreement under TEB VCAP will not prevent the Service from beginning an examination of the bond issue. An issue for which a request has been submitted under this paragraph (d) that has been placed under examination prior to the date the issue is identified to the Service will no longer be eligible for TEB VCAP.

(e) TEB VCAP Mailing Address. TEB VCAP submissions should be mailed to:

Internal Revenue Service  
Attn: T:GE:TEB:O, Rm. 5T2  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

#### SECTION 5. CLOSING AGREEMENT TERMS

Closing agreements under TEB VCAP will generally follow the model closing agreement in IRM 7.6.2. Specific closing agreement terms will depend on the facts and circumstances of the case, including

the degree of diligence exercised by the issuer and any conduit borrower. Any standardized closing agreement terms that are developed for TEB VCAP will be set forth in the Internal Revenue Manual and/or other published guidance.

#### SECTION 6. EFFECT OF CLOSING AGREEMENT EXECUTED UNDER TEB VCAP

The closing agreement will protect bondholders from including in their gross income any interest on the bonds during a period specified in the agreement for any violation described in the agreement. A closing agreement executed under section 7121 of the Code shall be final and conclusive except that 1) the matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of a material fact, 2) it is subject to the sections of the Code that expressly provide that effect be given to their provisions (including any stated exception for section 7122 of the Code) notwithstanding any other law or rule of law, and 3) it is subject to any law, enacted after the date of the agreement, that applies to a tax period ending after the date of the agreement covered by the agreement.

#### SECTION 7. REQUESTS FOR COMMENTS

We anticipate that TEB VCAP will be expanded and refined over time based on experience and public comment. The Service welcomes comments regarding the format and operation of TEB VCAP. The Service requests comments on the existing remedial action provisions and existing closing agreement programs and procedures contained in regulations and other published guidance. The Service welcomes suggestions with regard to the general framework of closing agreement terms including whether standardized closing agreement terms and amounts should be specified for particular violations. The Service also requests comments regarding whether any of the provisions of the model closing agreement set forth in IRM 7.6.2 should be changed.

Comments should be submitted in writing within six months from the date this Notice appears in the Internal Revenue Bulletin. Comments should be sent to the following address:

Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224  
Attn: Susan D. Ruth T:GE:TEB:O,  
Rm. 5T2.

Comments may also be sent electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, by submitting comments directly to the IRS Internet site at [http://www.irs.gov/prod/tax\\_regs/comments.html](http://www.irs.gov/prod/tax_regs/comments.html), or by e-mailing them to [notice.comments@m1.irs.counsel.gov](mailto:notice.comments@m1.irs.counsel.gov).

#### SECTION 8. EFFECTIVE DATE

TEB VCAP is effective immediately.

#### SECTION 9. DRAFTING INFORMATION

The principal author of this Notice is Cliff Gannett of Tax Exempt Bonds Outreach, Planning and Review of the Office of the Director, Tax Exempt Bonds, Tax Exempt/Government Entities. For further information regarding this Notice, contact Mr. Gannett at (202) 283-2999 (not a toll-free call).

### Disaster Relief for Taxpayers Affected by the September 11, 2001 Terrorist Attack.

#### Notice 2001-61

##### PURPOSE

This notice provides tax relief under sections 6081, 6161, and 7508A of the Internal Revenue Code for taxpayers affected by the September 11, 2001, terrorist attack, which included the destruction of the two World Trade Center towers and other buildings in the World Trade Center complex, damage to the Pentagon, and the airplane crash in Pennsylvania on Tuesday, September 11, 2001. The President issued federal disaster declarations on September 11 and 13, 2001. The September 11, 2001, declaration covers five New York counties: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, and Richmond. The September 13, 2001, declaration covers Arlington County in Virginia, where the Pentagon is located. These counties constitute a "covered disaster area" within the meaning of sec-

tion 301.7508A-1(d)(2) of the Procedure and Administration Regulations. In addition, the Internal Revenue Service has determined that other taxpayers affected (as defined below) by the terrorist attack are also entitled to relief, regardless of where they reside.

Taxpayers who believe they are entitled to relief under this notice should mark "September 11, 2001 Terrorist Attack" in red ink on the top of their return and other documents submitted to the IRS.

## BACKGROUND

Section 6081 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for filing any return, declaration, statement, or other document required by the Internal Revenue Code or by regulations thereunder.

Section 6161 provides that the Secretary may grant a reasonable extension of time (generally not to exceed 6 months) for paying the amount (or any installments) of tax shown or required to be shown on any return or declaration required by the Code or by regulations thereunder.

Section 7508A provides the Secretary with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer affected by a Presidentially declared disaster as defined in section 1033(h)(3). Pursuant to section 7508A(a) and section 301.7508A-1 of the regulations, a period of up to 120 days may be disregarded in determining whether the performance of certain acts is timely under the internal revenue laws. Section 301.7508A-1(c)(1) lists seven acts performed by taxpayers for which section 7508A relief may apply. Among these acts are the filing of certain tax returns; the payment of certain taxes; the making of deductible contributions to certain retirement plans and individual retirement arrangements; the filing of a Tax Court petition; the filing of a claim for credit or refund of tax; and the bringing of a lawsuit upon a claim for credit or refund of tax.

Section 301.7508A-1(d)(1) describes the seven types of "affected taxpayers" eligible for the 120 day postponement. These taxpayers include any individual whose principal residence, and any business entity whose principal place of business, is located in the covered disaster area; any individual who is a relief worker affiliated with

a recognized government or philanthropic organization and who is assisting in the covered disaster area; any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose records necessary to meet a filing or paying deadline are maintained in the covered disaster area; any estate or trust that has tax records necessary to meet a filing or paying deadline in a covered disaster area; and any spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife. Therefore, taxpayers located outside of the covered disaster area may qualify for relief if they are covered by one of the above mentioned categories.

Additionally, under section 301.7508A-1(d)(1)(vii) of the regulations, the Internal Revenue Service may determine that any other person is affected by a Presidentially declared disaster. Accordingly, the Internal Revenue Service has determined that the following persons are also affected by the disaster: (1) victims of the crash (including those on the plane and those on the ground) of the four commercial jet airplanes hijacked on September 11, 2001; (2) all workers assisting in the relief activities in the covered disaster areas and in Pennsylvania, regardless of whether they are affiliated with recognized government or philanthropic organizations; and (3) taxpayers whose place of employment is located within the Presidentially declared disaster area. In addition, taxpayers who have difficulty in meeting their federal tax obligations because of disruptions in the transportation and delivery of documents by mail or private delivery services resulting from the terrorist attack, and who do not otherwise qualify under section 7508A, are affected taxpayers only for purposes of relief as described in (5) of the Grant of Relief section below. The perpetrators of the attack, and anyone aiding the attack, will not qualify for relief under this notice.

## GRANT OF RELIEF

(1) Individuals located in the affected counties and other individuals who are "affected taxpayers" as defined by section 301.7508A-1(d)(1) of the regulations and by this notice that have extended the time for filing their tax year 2000 federal individual income tax return beyond September 10, 2001, will have a postponement to February 12, 2002, to file their returns. A simi-

lar postponement to pay the amount of tax (or any installment of tax) shown or required to be shown on those returns is generally not permitted. This is because the tax was originally due on the due date of the 2000 return, April 16, 2001, and, generally an extension of time to pay is not granted; however, a period of 120 days from September 11, 2001, until January 9, 2002, will be disregarded in the calculation of any failure to pay penalty. Thus, the penalty for failure to pay the tax due would start accruing once again if the tax is not paid by January 9, 2002. These returns include individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040NR, or 1040NR-EZ) and gift tax returns (Forms 709 and 709-A). See section 301.7508A-1(c)(1) for a list of affected returns.

(2) Affected taxpayers as defined by section 301.7508A-1(d)(1) of the regulations *other than individuals* are granted both a 120 day postponement under section 7508A and a six month extension under sections 6081 and 6161 to file certain federal tax returns otherwise originally due on or after September 11, 2001, and on or before November 30, 2001, and to pay the tax shown or required to be shown on those returns. The 120 day postponement and the six-month extension run consecutively. In addition, affected calendar year corporations and other entities that are currently on a six-month extension of time to file their federal tax return that expires between September 11, 2001, and November 30, 2001, will have an additional 120 days to file their returns under section 7508A. Thus, the tax year 2000 return for an affected calendar year corporation that has been extended to September 17, 2001 (September 15, 2001, is a Saturday), will now be due by January 15, 2002. A similar postponement to pay the amount of tax (or any installment of tax) shown or required to be shown on those returns is generally not permitted. This is because the tax was originally due on the due date of the 2000 return, March 15, 2001, for a calendar year corporation and generally, an extension of time to pay is not granted. A period of 120 days from September 11, 2001, until January 9, 2002, will be disregarded in the calculation of any failure to pay penalty. Thus, the penalty for failure to pay the tax due would start accruing once again if the tax was not paid by Jan-

uary 9, 2002. These returns include partnership returns, corporate income tax returns, estate and trust income tax returns, estate tax returns, annual returns filed by tax-exempt organizations, certain excise tax returns and employment tax returns. See section 301.7508A-1(c)(1) for a list of affected returns.

(3) The due date of any estimated tax payment for tax year 2001 originally due on or after September 11, 2001, and before January 15, 2002, for taxpayers located in the affected counties, and other affected taxpayers, is postponed under section 7508A until January 15, 2002. This applies to estimated tax payments made by individuals, corporations, estates, and trusts. Thus, for individuals, the third estimated tax payment for tax year 2001, due on September 17, 2001, is postponed until January 15, 2002. For a calendar year corporation, the third estimated tax payment for tax year 2001, due on October 1, 2001, is postponed until January 15, 2002. Affected taxpayers will not be subject to penalties for failure to pay estimated tax installments for tax year 2001 with respect to installments that were originally due on or after September 11, 2001, and before January 15, 2002, as long as such installments are paid by January 15, 2002.

(4) In addition, the Internal Revenue Service has granted a 120 day postponement of time to the affected taxpayers to perform the other acts described in section 301.7508A-1(c)(1) of the regulations. The postponement applies to acts required to be performed within the period beginning on September 11, 2001, and ending on November 30, 2001.

(5) Taxpayers who have difficulty in meeting their federal tax obligations because of disruption in the transportation and delivery of documents by mail or private delivery services resulting from the terrorist attack, and who do not otherwise qualify for relief as described above, will have until November 15, 2001, to file returns and make payments required to be made from September 11, 2001, through October 31, 2001.

(6) As a result of the terrorist attack, taxpayers may have difficulty in making timely federal tax deposits in accordance with section 6302 and the regulations thereunder. The time for making federal tax deposits, however, cannot be extended under section 6081 or postponed under

section 7508A. For deposits required to be made from September 11, 2001, through October 31, 2001, however, the Internal Revenue Service will waive the addition to tax under section 6656 for the failure to timely make any deposit of tax if the deposit is made on or before November 15, 2001, because reasonable cause for the failure exists during this period. The relief from the failure to timely deposit addition to tax under this paragraph is only applicable to taxpayers who are unable to meet their deposit obligations because their (or their service provider's) records, computers, or other essential supporting services were damaged, or essential personnel were injured, by the attack.

#### DRAFTING INFORMATION

The principal author of this notice is Charles Hall of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice, you may call (202) 622-4940 (not a toll-free call).

### Designated Private Delivery Services

#### Notice 2001-62

This notice updates the list of designated private delivery services ("designated PDSs") set forth in Notice 99-41 (1999-2 C.B. 325) for purposes of the timely mailing treated as timely filing/paying rule of section 7502 of the Internal Revenue Code, effective September 1, 2001. The Internal Revenue Service (IRS) is adding two new delivery services to the list of designated PDSs. Also, this notice modifies Rev. Proc. 97-19 (1997-1 C.B. 644) to provide a new address for a PDS to submit its written application for designation. This new address will also be used to request administrative review of a letter of denial of designation, appeal a letter confirming the denial of designation, provide written notification of any change in application information, and appeal a proposed revocation letter.

Section 7502(f) authorizes the Secretary to designate certain PDSs for the timely mailing treated as timely filing/paying rule of section 7502. Rev. Proc. 97-19 provides the criteria currently applicable for designa-

tion of a PDS. Notice 97-26 (1997-1 C.B. 413) provides special rules to determine the date that will be treated as the postmark date for purposes of section 7502. Notice 97-50 (1997-2 C.B. 305) modifying Rev. Proc. 97-19 and Notice 97-26, provides that each year there will be only one application period to apply for designation, which will end on June 30th. Notice 99-41 provides that the IRS will publish a subsequent notice providing a new list of designated PDSs only if a designated PDS (or service) is added to, or removed from, the current list.

Effective September 1, 2001, the list of designated PDSs is as follows:

1. Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, and Second Day Service;
2. DHL Worldwide Express (DHL): DHL "Same Day" Service and DHL USA Overnight;
3. Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, and FedEx 2 Day; and
4. United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

UPS Worldwide Express Plus and UPS Worldwide Express are added to the list published in Notice 99-41. Both of these services provide delivery services to the United States from foreign countries. Airborne, DHL, FedEx, and UPS are not designated with respect to any type of delivery service not identified above. The list of designated PDSs and services set forth above will remain in effect until further notice. The IRS will publish a subsequent notice setting forth a new list only if a designated PDS (or service) is added to, or removed from, the current list, or if there is a change to the application and/or appeal procedures. Delivery services that wish to be designated in time for an upcoming filing season must continue to submit applications by June 30th of the year preceding that filing season, as required by Rev. Proc. 97-19 (as modified by Notice 97-50). Notice 97-26 continues to provide special rules used to determine the date that will be treated as the postmark date for purposes of section 7502.

As a result of the IRS's reorganization, the application addresses listed in section